

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TYRELL BURKS, )  
v. )  
ROBERT ZARATE, )  
Plaintiff, ) Case No. C10-1338-RAJ  
Defendant. )  
ORDER OF DISMISSAL

The Court, having reviewed defendant's motion to dismiss (Dkt. 14), all responsive papers (Dkts. 16, 17), the Report and Recommendation of United States Magistrate Judge James P. Donohue, the governing law, and the balance of the record, does hereby find and ORDER:

- (1) The Report and Recommendation is ADOPTED;
- (2) Defendant's motion to dismiss is GRANTED and this 42 U.S.C. § 1983 action is DISMISSED without prejudice for failure to state a claim upon which relief may be granted;
- (3) This dismissal constitutes a strike for the purposes of 28 U.S.C. § 1915(g); and
- (4) The Clerk of Court is directed to send copies of this Order to plaintiff and to Magistrate Judge James P. Donohue.

1 DATED this 23rd day of December, 2010.  
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7 The Honorable Richard A. Jones  
8 United States District Judge  
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